IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

TWENTY EIGHTH DAY OF JULY

TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.21247 of 2003

Between:

Smt. K.Varalaxmi and others. …Petitioner.

And

The Station House Officer,

Saidabad Police Station, Hyderabad and another. …Respondents.

COUNSEL FOR THE PETITIONERS : Mr. B. Shankar

COUNSEL FOR RESPONDENTS : G.P. for Home.

The Court made the following order :

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ORDER :

The first respondent herein opened rowdy sheet against one K.Srinivas (husband of the first petitioner) in 1992 when he was involved in a crime in 1991. Since then the same is being continued. The wife and two minor children of K.Srinivas are before this Court seeking a direction to the respondents to close the rowdy sheet on the ground that K.Srinivas was not involved in any crime since 1992.

The first respondent has filed a counter affidavit stating that the first petitioner's husband was involved in various crimes which ended in acquittal or the punishment of imposing fine. The allegation that during the festival time the first petitioners' husband was warned not to breach the peace in the area is not denied. The counter is, however, silent as to why the rowdy sheet is being continued since 1992. It is also silent whether every year the orders of the jurisdictional Assistant Commissioner of Police are obtained for continuing the rowdy sheet as required under relevant Police Standing Orders.

Heard learned counsel for the petitioners and the learned Government Pleader for Home.

Admittedly, the matter is covered by a judgment of this Court in S. SATYANARAYANA v. STATE OF A.P.. The writ petitions is, therefore, disposed of in terms of the judgment in
S. SATYANARAYANA v. STATE OF A.P.(supra) directing the first respondent to consider the request of the petitioners for closing rowdy sheet against K.Srinivas following the principles laid down in SATYANARAYANA'S case (supra), which are as under.

i. A mere conviction or convictions cannot be thumb rule for opening history sheet or rowdy sheet though history sheet can be opened even without conviction for the limited purpose of watching a person discreetly.

ii. At the time of opening a history sheet or rowdy sheet a competent officer has to apply mind taking into consideration the social background the proceedings in the criminal trial if a person is convicted and all other relevant material before passing orders for opening history sheet or rowdy sheet.

iii. A history sheet/rowdy sheet is retained for the period of two years only unless it is ordered to be closed by the Superintendent of Police earlier than two years. During

the initial period of two years, the history sheeter or rowdy sheeter is entitled to request the concerned police officer to close the history sheet or rowdy sheet which has to be considered by the police officer in an objective manner.

iv. While passing orders for retention of history sheet for another year more, the competent Sub-Divisional Police Officer has to take into consideration the various factors, to wit, surveillance reports, the crime history with reference to the breach of peace of society during the preceding year, the social and political background of the person etc. If there is a preponderance of opinion among the surveillance officers that the person did not come up for any adverse notice and leading a blemishless family life it is a strong circumstance to order for closure of the history sheet or rowdy sheet.

v. When an order is passed by the competent police officer for retention of the history sheet by simply endorsing on the report/letter of the S.H.O. a single line order, that by itself cannot be a ground to continue the rowdy sheet.

vi. Any order passed by the Sub-Divisional Police Officer shall have to be supported by reasons. The reasons need not be communicated but to be recorded.

vii. The orders for opening or retention of history sheet/rowdy sheet are passed under the administrative instructions/guidelines. If such an order is challenged, the competent authority has to place the reasons before the Court which justify retention of history sheet/rowdy sheet. Further, it is always better for the Police Officer to record his own reasons for retention/opening of the history sheet/rowdy sheet.

viii. In the event as mentioned in conclusion 4.7 it is always open to the Court of judicial review to direct the Sub-Divisional Police Officer to reconsider his decision and pass appropriate orders. But whatever be the events in the guise of opening/retention of history sheet a person's liberty, right to privacy and other freedoms under Article 19 of the Constitution of India cannot be infringed under any circumstances.

ix. It is to be remembered that any order of the competent police officer which is not supported by reasons is itself unreasonable and arbitrary and can be termed as mala fide in the sense that it is contrary to the purpose for which the Police Officer is authorised under relevant Police Standing Orders. Hence, if the Court comes to the conclusion that the order of the Sub-Divisional Police Officer is contrary to the purpose for which surveillance is authorised, the action shall be set at naught forthwith on the principle that what is

unreasonable and unfair is arbitrary and such arbitrary exercise of power amounts to exercising, the power mala fide.

The petitioners are, however, at liberty to approach the first respondent by filing appropriate representation for closing rowdy sheet against K.Srinivas if the same is still continued. If rowdy sheet is already closed, there is no necessity to the petitioners to make further representation.

The writ petition is accordingly disposed of. No costs.

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(V.V.S. RAO, J.)

28-07-2005.

Msr.

HON'BLE SRI JUSTICE V.V.S. RAO

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28-07-2005

(Msr)